

By Oakley

H.B. No. 1119

A BILL TO BE ENTITLED

AN ACT

relating to the circumstances under which certain peace officers and fire fighters may be required to take a polygraph examination.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 614, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. POLYGRAPH EXAMINATIONS

Sec. 614.061. DEFINITIONS. In this subchapter:

(1) "Employing department" means the fire department employing a fire fighter or the law enforcement entity employing a peace officer.

(2) "Fire fighter" means a member of a fire department who:

(A) is employed by a governmental entity; and

(B) performs a function listed in Section 143.003(4), Local Government Code, without regard to whether the individual is subject to a civil service system or program.

(3) "Peace officer" means an individual who:

(A) is appointed or employed by a governmental entity; and

(B) is a peace officer under Article 2.12, Code of Criminal Procedure, or other law.

Sec. 614.062. APPLICABILITY. This subchapter does not apply to:

1 (1) a peace officer to whom Section 411.007 applies;
2 or

3 (2) a fire fighter or peace officer who has been
4 ordered to take a polygraph examination under Section 143.124,
5 Local Government Code.

6 Sec. 614.063. POLYGRAPH EXAMINATION. (a) A fire fighter or
7 peace officer may not be required to submit to a polygraph
8 examination as a part of an internal investigation regarding the
9 conduct of the fire fighter or peace officer unless:

10 (1) the complainant submits to a polygraph examination
11 and the:

12 (A) examination indicates no deception regarding
13 matters critical to the investigation; or

14 (B) results of the examination are inconclusive;
15 (2) the complainant is mentally incapable of being
16 polygraphed; or

17 (3) the fire fighter or peace officer is ordered to
18 submit to an examination under Subsection (c) or (d).

19 (b) The results of the fire fighter's or peace officer's
20 polygraph examination are admissible only in an administrative
21 proceeding conducted by a civil service commission or hearings
22 examiner under civil service laws or as a part of the employing
23 department's internal procedures. The results are admissible only:

24 (1) to corroborate other statements or evidence; or
25 (2) with the consent of the fire fighter or peace
26 officer who is the subject of the polygraph examination.

27 (c) The head of the employing department may order a fire

1 fighter or peace officer to submit to a polygraph examination if
2 the department head:

3 (1) considers the circumstances to be extraordinary;

4 (2) believes that the integrity of the fire fighter or
5 peace officer is in question; and

6 (3) submits to the fire fighter or peace officer a
7 written explanation of the nature of the extraordinary
8 circumstances.

9 (d) The head of the employing department may require a fire
10 fighter or peace officer to submit to a polygraph examination if:

11 (1) the complaint is confined to internal operations;

12 (2) the complainant is an employee of the employing
13 department; and

14 (3) prima facie evidence exists that indicates the
15 complaint is valid.

16 SECTION 2. The importance of this legislation and the
17 crowded condition of the calendars in both houses create an
18 emergency and an imperative public necessity that the
19 constitutional rule requiring bills to be read on three several
20 days in each house be suspended, and this rule is hereby suspended,
21 and that this Act take effect and be in force from and after its
22 passage, and it is so enacted.

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By

Cable

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FEB 7 1995

Filed with the Chief Clerk

FEB 9 1995

Read first time and referred to Committee on PUBLIC SAFETY

Reported favorably (as amended)
(as substituted)

Sent to Committee on (Calendars)
(Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of yeas, nays, present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of yeas, nays, present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of yeas, nays, present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on

Reported favorably

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(yeas, nays)

Read second time, , and passed to third reading by (unanimous consent)
(a viva voce vote)
(yeas, nays)

Senate and Constitutional 3 Day Rules suspended by a vote of yeas, nays

Read third time, , and passed by (a viva voce vote)
(yeas, nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)